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| 10/605,643 | 10/15/2003 | David Morrow | WLI 1096 PUS | 2642 |
| 27256 | 7590 | 03/29/2006 | EXAMINER | |
| ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034 | | | CHAMBERS, MICHAEL S | |
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| | | | 3711 | |

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,643

Applicant(s)

MORROW ET AL.

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,21,23,24,26,28-30 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,21,23,24,26,28-30 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-6, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by McGrann (2742946). McGrann discloses a hollow metal tube having an insert (fig 2). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2111-2112).

As to claim 3: McGrann discloses a insert that extends around an inner circumference (fig 2).

As to claims 4-6: McGrann discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 1). The terms top, bottom and intermediate are broadly interpreted.

As to claims 23 -24 : McGrann discloses an insert having a substantial thickness (fig 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-6, 23-24, 26-30 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmala et al (5320386). Harmala discloses the elements of claim 1 however it fails to disclose having a non-circular shape (fig 2, 4:8-11, 4:37-41). The specification provides no surprising or unanticipated results from having a non-circular shape. Therefore it is considered a design choice. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent cross-sectional shapes based on cost, manufacturing and design considerations. In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2111-2112).

As to claim 2: Harmala discloses a reinforcing insert that extends across the length of the hollow tube (fig 2).

As to claim 3: Harmala discloses a insert that extends around an inner circumference (fig 2).

As to claims 4-6: Harmala discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 2).

As to claims 23 -24 : Harmala discloses an insert having a substantial thickness (fig 2).

As to claim 26 : See claim 1 rejection.

As to claim 28 : Harmala discloses an insert that extends the length of the metal tube (fig 1,2).

As to claims 29-30: Harmala discloses a reinforcing insert that is coupled at the first and second end (fig 1,2).

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As to claim 32 : Harmala discloses a uniform thickness (fig 1,2).

As to claim 33 : Harmala discloses an insert (fig 1,2).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmala as applied to claim 1 above. The type of reinforcing material is a matter of design choice. The specification provides no unexpected results in using a foam or fiberglass (paragraph 10 of specification). It would have been obvious to one of ordinary skill in the art to have selected an appropriate material for reinforcement based on cost and manufacturing methods.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmala as applied to claim 1 and further in view of applicant's admitted prior art. The specification provides no unanticipated results from this limitation. Official Notice was taken in the prior office action that the use of multiple reinforcing inserts is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed multiple sections of reinforcing inserts based on cost and manufacturing and design considerations.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmala as applied to claim 26 above. The type of reinforcing material is a matter of design choice. The specification provides no unexpected results in using a foam or fiberglass (paragraph 10 of specification). It would have been obvious to one of ordinary skill in the art to have selected an appropriate material for reinforcement based on cost and manufacturing methods.

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Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmala as applied to claim 26 above. The thickness of the insert is a matter of design choice. The specification provides no unexpected results in using a thickness larger on one half of the handle than the other half. Various types of manufacturing methods would cause this type of limitation. It would have been obvious to one of ordinary skill in the art to have selected an appropriate thickness based on cost and manufacturing methods.

Also,

Claims 1-6, 23-24, 26, 28-30 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brine et al (6752730) in view of E-Lacrosse (pg 6). Brine discloses the elements of claim 1 however it fails to disclose the use of a reinforcing member. E-Lacrosse discloses it is old in the art to reinforce a lacrosse stick (pg 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed reinforcing member of E-Lacrosse with the device of Brine in order to provide a more sturdy and durable device for the player.

As to claim 2: E-Lacrosse discloses a reinforcing insert that extends across the length of the hollow tube (pg 6).

As to claim 3: E-Lacrosse discloses an insert that extends around an inner circumference (pg 6).

As to claims 4-6: E-Lacrosse discloses a reinforcing insert that is coupled to the top, intermediate and end portion (pg 6).

As to claims 23 -24 : E-Lacrosse discloses an insert having a substantial thickness (pg 6).

As to claim 26 : See claim 1 rejection.

As to claim 28 : E-Lacrosse discloses an insert that extends the length of the metal tube (fig 5).

As to claims 29-30: E-Lacrosse discloses a reinforcing insert that is coupled at the first and second end (fig 1,5).

As to claim 32 : E-Lacrosse discloses a uniform thickness (fig 1, 1b).

As to claim 33 : E-Lacrosse discloses an insert (fig 1, 1b).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art as applied to claim 1 above. The type of material used is a matter of design choice. The specification provides no unexpected results in using a fiberglass material. It would have been obvious to one of ordinary skill in the art to have selected an appropriate material including fiberglass based on cost and manufacturing methods.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art as applied to claim 26 above. The thickness of the insert is a matter of design choice. The specification provides no unexpected results in using a thickness larger on one half of the handle than the other half. Various types of manufacturing methods would cause this type of limitation. It would have been obvious to one of ordinary skill in the art to have selected an appropriate thickness based on cost and manufacturing methods.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art as applied to claim 1 and further in view of applicant's admitted prior art. The specification provides no unanticipated results from this limitation. Official Notice was

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taken in the prior office action that the use of multiple reinforcing inserts is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed multiple sections of reinforcing inserts based on cost and manufacturing and design considerations.

Also,

Claims 1-7,21, 23-24,26-30 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brine et al (6752730) in view of Hoult (3702702) and McNeely (5511777). Brine discloses the elements of claim 1 however it fails to disclose the use of a tubular reinforcing member. McNeely discloses the use of a tubular reinforcing member having a uniform inner cavity (fig 1b). Hoult discloses it is old in the art to reinforce a lacrosse handle (fig 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed reinforcing member of McNeely with the device of Brine in order to provide a more sturdy and durable device for the player.

As to claim 2: McNeely discloses a reinforcing insert that extends across the length of the hollow tube (fig 1,1b).

As to claim 3: McNeely discloses a insert that extends around an inner circumference (fig 1,1b).

As to claims 4-6: Hoult discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 5).

As to claims 23 -24 : McNeely discloses an insert having a substantial thickness (fig 1,1b).

As to claim 26 : See claim 1 rejection.

As to claim 28 : Hoult discloses an insert that extends the length of the metal tube (fig 5).

As to claims 29-30: Hoult discloses a reinforcing insert that is coupled at the first and second end (fig 1,5).

As to claim 32 : McNeely discloses a uniform thickness (fig 1, 1b).

As to claim 33 : McNeely discloses an insert (fig 1, 1b).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art as applied to claim 1 above. The type of material used is a matter of design choice. The specification provides no unexpected results in using a fiberglass material. It would have been obvious to one of ordinary skill in the art to have selected an appropriate material including fiberglass based on cost and manufacturing methods.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art as applied to claim 1 and further in view of applicant's admitted prior art. The specification provides no unanticipated results from this limitation. Official Notice was taken in the prior office action that the use of multiple reinforcing inserts is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed multiple sections of reinforcing inserts based on cost and manufacturing and design considerations.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art as applied to claim 26 above. The thickness of the insert is a matter of design choice. The specification provides no unexpected results in using a thickness larger on

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one half of the handle than the other half. Various types of manufacturing methods would cause this type of limitation. It would have been obvious to one of ordinary skill in the art to have selected an appropriate thickness based on cost and manufacturing methods.

Response to Arguments

Applicant's arguments with respect to claims 1-7,21,23,24,26,28-30 and 32-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6752730*3702702*5511777*5320386

Michael Chambers
Examiner
Art Unit 3711

March 21, 2006



EUGENE KIM
SUPERVISORY PATENT EXAMINER